

Valid Court Order Checklist

For the purpose of determining whether a valid court order exception can be claimed, all of the following conditions must be present:

1. _____ Was the juvenile brought before a court of competent jurisdiction?
2. _____ Did the court order regulate future conduct of the juvenile?
3. _____ Did the Juvenile receive adequate and fair warning of the consequences of violation of the order at the time it was issued?
4. _____ Was the warning provided to the juvenile and to his attorney and/or to his legal guardian in writing?
5. _____ Was the warning reflected in the court record and proceedings?
6. _____ Was there a judicial determination, based on a hearing, that there was probable cause to believe the juvenile violated the court order?
7. _____ Was the probable cause hearing held within 24-hours of the juvenile's placement in secure detention, excluding weekends and holidays?
8. _____ Was the violation hearing conducted within 72 hours, excluding weekends and holidays?
9. _____ Prior to issuance of the court order, and during the violation hearing, were the following due process rights provided:
 - ☐ The right to have the charges against the juvenile in writing served upon him in a reasonable time before the hearing;
 - ☐ The right to a hearing before a court;
 - ☐ The right to an explanation of the nature and consequences of the proceedings;
 - ☐ The right to legal counsel, and the right to have such counsel appointed by the court if indigent;
 - ☐ The right to confront witnesses;
 - ☐ The right to present witnesses;
 - ☐ The right to have a transcript or record of the proceedings; and
 - ☐ The right of appeal to an appropriate court.
10. _____ At the violation hearing, did the judge determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community? This determination, if it results in a disposition of secure confinement (commitment to a secure facility), must be informed by a written report to the judge that reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and, determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by a public agency other than a court or law enforcement agency.

If all of the above conditions are present, and the juvenile status offender is found in a violation hearing to have violated a valid court order, the juvenile may be held in a secure detention or correctional facility but not an adult jail or lockup. However, a nonoffender such as a dependent or neglected child cannot be placed in a secure detention or correctional facility for violating a valid court order.

SUMMARY OF THE VALID COURT ORDER (VCO) PROCESS

Juvenile commits a status offense such as truancy, runaway, curfew, or minor in possession of alcohol. (The VCO provision cannot be used for non-offenders such as dependent or neglected children).

↓ **1**

If held, the juvenile can be placed in the following facilities:

- A juvenile detention center for up to 24 hours, exclusive of weekends and holidays, or,
- A non-secure facility.

The juvenile cannot be held in an adult jail or lockup for any length of time.

↓ **2**

The juvenile is brought before a court of competent jurisdiction for the issuance of a Valid Court Order. The order must include:

- An order regulating the future conduct of the juvenile,
- Warning of the consequences of violating the VCO,
- Warning provided in writing to the juvenile, parents and attorney,
- Warning must be reflected in court record and proceedings, and
- Juvenile must be advised of all due process rights.

↓ **3**

After its issuance, the juvenile violates the conditions of the Valid Court Order.

↓ **4**

The juvenile cannot be held in an adult jail or lockup for any length of time.

↓ **5**

If held, the juvenile can be placed in a juvenile detention center if the juvenile has a probable cause hearing within 24 hours (exclusive of weekends and holidays) of being placed in detention.

↓ **6**

If probable cause was established, the juvenile can continue to be held in a juvenile detention center if the juvenile has a violation hearing within 72 hours (exclusive of weekends and holidays) of being placed in detention. The violation hearing must include the following:

- The juvenile must be advised again of all due process rights,
- There must be a judicial determination that the juvenile violated the valid court order, and,
- There must be a judicial determination that there is no less restrictive alternative available.
- This determination must be based on a written report prepared by a public agency other than a court or law enforcement agency. The written report must include the following three items:
 1. A review of the behavior of the juvenile,
 2. A determination of the reasons for that behavior, and,
 3. A determination that all other dispositions other than secure detention are inappropriate.

↓ **7**

If all of the items listed above were satisfied and during the violation hearing the juvenile was found to have violated the conditions of the VCO, the juvenile can be held in a juvenile detention center for as long as the juvenile court deems appropriate. The juvenile cannot be held in an adult jail or lockup for any length of time.